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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 DARNELL MCGARY,

11 Petitioner,

12 v.

13 HENRY RICHARDS,

14 Respondent.
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Case No. C09-5156BHS-KLS

ORDER FOR SERVICE AND
RETURN, § 2254 PETITION

18 On April 2, 2009, the Court issued an order to show cause, informing petitioner that it appeared
19 the grounds contained in his petition for writ of federal *habeas corpus* relief were both untimely and
20 unexhausted, and directing him to file an amended complaint, demonstrating that those grounds had been
21 fully exhausted and were not now time-barred. (Dkt. #4). On April 9, 2009, petitioner filed a response,
22 asserting he had fully exhausted his grounds for relief and timely filed his petition. (Dkt. #5). Although
23 petitioner's response fails to contain any further reliable evidence that this is so, the Court finds sufficient
24 uncertainty surrounding these issues to allow at least for the petition to be served.

25 Accordingly, the Court hereby ORDERS as follows:

26 (l) The Clerk shall arrange for service by certified mail upon respondent and the Attorney
27 General for the State of Washington, copies of the petition, and all documents in support thereof. All
28 costs of service shall be advanced by the United States. The Clerk shall assemble the necessary

1 documents to effect service. In addition, the Clerk shall send petitioner a copy of this Order, and the
2 General Order.

3 (2) Within forty-five (45) days after such service, respondent(s) shall file and serve an answer
4 in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District Courts. As part
5 of such answer, respondent(s) should state whether petitioner has exhausted available state remedies,
6 whether an evidentiary hearing is necessary, and whether there is any issue of abuse or delay under
7 Rule 9. Respondent shall not file a dispositive motion in place of an answer without first showing cause
8 as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of the Court and
9 serve a copy of the answer upon petitioner.

10 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon
11 receipt of the answer the Clerk will note the matter for consideration on the fourth Friday after the answer
12 is filed, petitioner may file and serve a response not later than on the Monday immediately preceding the
13 Friday appointed for consideration of the matter, and respondent may file and serve a reply brief not later
14 than on the Thursday immediately preceding the Friday designated for consideration of the matter.

15 DATED this 30th day of April, 2009.

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19 Karen L. Strombom
20 United States Magistrate Judge
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